

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION**

AMANDA HERSHBERGER, and)
ABDEL ALAMEER)
Plaintiffs,) Case No:
)
BlueCross BlueShield of Tennessee, Inc.,)
Tennessee Health Foundation, Inc.,)
Kelly Services, Inc.,)
Kelly Services Global, LLC., and)
Kelly Services USA, LLC.,)
Defendants.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendants BlueCross BlueShield of Tennessee, Inc., and Tennessee Health Foundation, Inc., (hereinafter, “BCBST Defendants”) file this Notice of Removal for the purpose of removing the action entitled “*Amanda Hershberger and Abdel Alameer v. BlueCross BlueShield of Tennessee, Inc., Tennessee Health Foundation, Inc., Kelly Services, Inc., Kelly Services Global, LLC, and Kelly Services USA, LLC*” and docketed in the Chancery Court of Hamilton County, Tennessee, Case No. 19-0770, to the United States District Court for the Eastern District of Tennessee. As grounds, Defendant states as follows:

1. On October 24, 2019 , Plaintiffs filed their Complaint and Demand for Jury Trial (“Complaint”), styled “*Amanda Hershberger and Abdel Alameer v. BlueCross BlueShield of Tennessee, Inc., Tennessee Health Foundation, Inc., Kelly Services, Inc., Kelly Services Global, LLC, and Kelly Services USA, LLC*” and docketed in the Chancery Court of Hamilton County, Tennessee, Case No. 19-0770. Plaintiffs’ Complaint asserted religious discrimination and disability discrimination under the Tennessee Human Rights Act.

2. Each Plaintiff filed charges of discrimination with the United States Equal Employment Opportunity Commission (“EEOC”) asserting violations of a federal statute.

3. On January 30, 2020, Plaintiffs filed a voluntary dismissal without prejudice as to Defendants Kelly Services, Inc., Kelly Services Global, LLC, and Kelly Services USA, LLC., and they are no longer parties to this action.

4. On February 11, 2020, the EEOC issued a Notice of Right to Sue to Plaintiff Alameer and ended the EEOC proceeding.

5. On March 18, 2020, the EEOC issued a Notice of Right to Sue to Plaintiff Hershberger and ended the EEOC proceeding.

6. On May 4, 2020, Plaintiffs filed their First Amended Complaint in the Chancery Court of Hamilton County, Tennessee, asserting additional claims of disability discrimination and retaliation under the American with Disabilities Act of 2008, (“ADA”), 42 U.S.C. §12101, Tennessee Disability Act, T.C.A. § 8-50-103, and Tennessee Human Rights Act, T.C.A. § 4-21-101, which created federal question jurisdiction in this Court.

7. True and authentic copies of the respective Complaint and First Amended Complaint are attached as **Exhibit 1**.

8. BCBST Defendants are filing this Notice of Removal within thirty days after service of the First Amended Complaint, and this Notice of Removal is timely under 28 U.S.C. § 1446(b).

9. This action is removed on the basis of federal question jurisdiction. Plaintiff's asserted discrimination and retaliation claims are now asserted under federal law, which federal district courts have original jurisdiction to hear, and this action is removable pursuant to 28 U.S.C. § 1441(a). *See* 28 U.S.C. §1331.

10. Venue is proper pursuant to 28 U.S.C. § 1441(a) in the United States District Court for the Eastern District of Tennessee, which embraces the same county where the state court action is pending.

11. Pursuant to 28 U.S.C. § 1446(d), BCBST Defendants have attached as **Exhibit 2**, a copy of all process, pleadings and orders served upon it.

12. Undersigned counsel also certifies that a copy of the Notice of Removal will be promptly served on Plaintiff and filed with the Clerk and Master of the Hamilton County Chancery Court, Tennessee in accordance with 28 U.S.C. § 1446(d). A copy is attached hereto as **Exhibit 3**.

WHEREFORE, BCBST Defendants remove the action now pending in the Chancery Court of Hamilton County, Tennessee, to the United States District Court for the Eastern District of Tennessee, Southern Division.

s/ Robert E. Boston

Robert E. Boston (#009744)
Kierstin Jodway (#36063)
Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, TN 37219
Telephone: (615) 244-6380
Facsimile: (615) 244-6804
bob.boston@wallerlaw.com
kierstin.jodway@wallerlaw.com

Attorneys for Defendants BlueCross BlueShield of Tennessee, Inc. and Tennessee Health Foundation, Inc.

CERTIFICATE OF SERVICE

I certify that on May 28, 2020, the foregoing document was filed electronically with the Clerk of the Court using the court's CM/ECF system, which is expected to send notification of such filing to the following counsel of record:

Stephen Kyle McDonald
Joshua R. Ward
Massey & Associates, PC
6400 Lee Highway, Suite 101
Chattanooga TN 37421

s/ Robert E. Boston